

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**CHARLES ARMOUR,  
#S16541,**

**Plaintiff,**

**vs.**

**V. SANTOS, et al,**

**Defendants.**

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**Case No. 19-cv-678-SMY**

**NOTICE AND ORDER**

This matter comes before the Court for case management purposes. The Court screened Plaintiff's Complaint pursuant to 28 U.S.C. § 1915A on October 1, 2019 ("screening order"). (Doc. 15). Pursuant to the screening order, Defendants Robert C. Mueller and Lisa Krebs were sent requests for Waiver of Service of Summons (Docs. 17, 18), but they were not returned. Summons was issued to Defendants Mueller and Krebs. (Doc. 43). Defendant Mueller was served on December 4, 2019 and his responsive pleading was due December 26, 2019. (Doc. 49). Defendant Krebs was served on December 11, 2019 and her responsive pleading was due January 2, 2020. (Doc. 52). To date, Defendants Mueller and Krebs have failed to move, answer, or otherwise plead in response to the Complaint.<sup>1</sup>

The Federal Rules of Civil Procedure provide that the Clerk of Court must enter default against a defendant who has failed to plead or otherwise defend. FED. R.CIV. P. 55(a).

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<sup>1</sup> The screening order directed Defendants to "timely file an appropriate responsive pleading" to the Complaint and states that Defendants "shall not waive filing a reply pursuant to 42 U.S.C. § 1997e(g)." (Doc. 8, p. 9). Because the Court specifically ordered Defendants to respond to the Complaint, Defendants cannot rely on the Prison Litigation Reform Act to avoid the entry of default. 42 U.S.C. § 1997e(g)(2). See e.g., *Vinning v. Walks*, 2009 WL 839052, \*1 n.2 (S.D. Ill. Mar. 31, 2009) (default against defendant was proper because the Court exercised its authority under 42 U.S.C. § 1997e(g)(2) by directing the defendant to file a reply to plaintiff's complaint, and the defendant "disregarded that direct [o]rder").

Accordingly, the Court **ORDERS** as follows:

- 1) The Clerk of Court is **DIRECTED** to **ENTER DEFAULT** against Defendants Mueller and Krebs in accordance with Federal Rule of Civil Procedure 55(a).
- 2) Plaintiff is **ORDERED** to move for default judgment against Defendants Mueller and Krebs on or before April 14, 2020, in accordance with Federal Rule of Civil Procedure 55(b).
- 3) If Plaintiff fails to move for default judgment as set forth in this Order, Defendants Mueller and Krebs will be dismissed for Plaintiff's failure to prosecute his claim against them and/or failure to comply with an order of the Court.
- 4) The Clerk of Court is **DIRECTED** to transmit a copy of this Order and the entry of default to Plaintiff and Defendants Mueller and Krebs.

**IT IS SO ORDERED.**

**DATED: March 31, 2020**

*s/ Staci M. Yandle*  
**STACI M. YANDLE**  
**United States District Judge**